

SELF-DETERMINATION VS. TERRITORIAL INTEGRITY: OTTOMAN-ARMENIAN CONFLICT OF 1915 FROM TWO PERSPECTIVES OF STATEHOOD

(KENDİ KADERİNİ TAYİN VS. TOPRAK BÜTÜNLÜĞÜ: İKİ FARKLI
DEVLET OLUŞ PERSPEKTİFİNDEN 1915 OSMANLI-ERMENİ ÇATIŞMASI)

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Abstract: *This article investigates the 1915 relocation of approximately 750,000 Ottoman Armenians by the İttihat ve Terakki (Union and Progress) administration with respect to the notions of self-determination and territorial integrity. While it remains distant to the decades-old “genocide or relocation?” debate, this paper promises to discuss this controversy from an original angle, and offers a theoretical framework for the legitimate grounds on which the right to self-determination exists to justify secessionist demands. Mistreatment, peacefulness, majority and historical tests are proposed as theoretical prerequisites of legitimate separatism, and an archival analysis of the 1915 relocation suggests that three of these conditions were not satisfied in the Armenians’ pursuit of independence.*

Keywords: *Self-determination, territorial integrity, Armenian-Ottoman conflict, relocation, genocide*

Öz: *Bu makale yaklaşık 750000 Osmanlı Ermenisinin İttihat ve Terakki yönetimi tarafından sevk ve iskan edilmesini, kendi kaderini tayin hakkı ve toprak bütünlüğü kavramları açısından ele almaktadır. On yıllardır sürmekte olan “soykırım mı? tehcir mi?” tartışmalarına girmeden, makale bu ihtilafa özgün bir açıdan yaklaşarak ayrılıkçı talepleri haklı kılabilecek kendi kaderini tayin hakkının dayandığı meşru temellere ilişkin teorik bir yaklaşım sunmaktadır. Kötü muamele, barışçılık, çoğunluk ve tarihsel imtihan, meşru ayrılıkçılık için teorik önkoşullar olarak tanımlanmaktadır ve 1915 tehcirinin arşivsel bir analizi bu önkoşullardan üçünün Ermenilerin bağımsızlık arayışında bulunmadığı ortaya koyulmaktadır.*

Anahtar Kelimeler: *Kendi kaderini tayin hakkı, toprak bütünlüğü, Ermeni-Osmanlı ihtilafı, tehcir, soykırım*

Introduction

Few events in history combined politics, sociology, history and economics as much, yet were interpreted by these fields as little as the Ottoman-Armenian conflict of 1915. Was the Ottomans' relocation of their Armenian subjects to Mesopotamia region a legitimate government measure to quell an insurgency, and the large casualties an outcome of wartime conditions? Or was it a deceitful elimination of an unfaithful non-Muslim minority under the guise of relocation, *the first genocide of the 20th century*? The discourse on the issue covers an international relations dispute that fetches farther than nearly a century that has passed since the subject years. For Armenians around the world, international acknowledgment of the 1915 events as *genocide* will serve justice to their ancestors who fell victim in the hands of the Ottoman state. For modern-day Turkey, this inherited issue is a modern Crusade in order to curb the international emergence of the world's leading Muslim country. For the Government of Armenia, it is an intricate matter that requires a fine political balance between pleasing Armenian diaspora groups that represent a significant portion of the country's national income and three times as many Armenians as those in Armenia, and a rapidly prospering Turkish neighbor that is becoming a regional powerhouse with an increasingly favorable view of Armenia.

Despite the drastic split in their final conclusions, relocation and genocide literatures draw the general outline of the 1915 events somewhat identically: During the World War-I, an Armenian separatist movement was formed in the eastern half of the Ottoman Empire in pursuit of dismantling the war-worn Ottoman land and breaking out of it as an independent nation. In an effort to attract international Christian support and weaken the Ottoman hold in the area, rebels from *Hay Heghapokhakan Dashnaktsutyun* (*Dashnaks* or Armenian Revolutionist Federation) staged guerilla attacks in local villages and massacred thousands of Muslim peasants. Local Armenians initially refused to contribute the violent mission against their own government and neighbors. But as the greater empire began losing its territories to the occupying forces and the Armenian-populated regions looked like the next fall out in this campaign of imperial looting, they changed heart and began to provide manpower, arms, food and lodging to Dashnak rebels and Russian forces against the Ottomans. Ottoman state repeatedly urged Armenian patriarchs to bring their communities to peace, and issued a law that legislated banishment of any group that sides with the enemy during a war. As the violence continued, approximately 750,000 Armenians, mostly from the Eastern Anatolia, were mobilized by government forces towards the Mesopotamia region. The marches, however, ended tragically, and nearly all of the relocatees were unaccounted for when the 1.5 year-long practice ended in the late 1916.

Leaving bitter anger in Armenian common memory and an ineradicable stain in Ottoman history, these events led to a passionate debate as to whether the Armenians' relocation constitutes what is called *genocide* in international law today. Genocide literature argues that the Ottoman state's unrealistic policy of moving hundreds of thousands of people from all ages and health conditions on foot for hundreds of miles with minimal food sources suggests that the relocation was a cover up for a real intent to end the Armenian question by eliminating them. Relocation literature dismisses the charge with a counterargument that international laws require annihilative intent to exist for a genocide to occur, and available evidence counters the claim that the Union and Progress leaders acted out of such motivation. The relocation's outcome was regrettable, but it was a function of famine, diseases and attacks by local bandits along the relocation route, not aggression by Ottoman officials. The Ottoman state can at most be blamed for its incompetence in protecting the relocation convoys, but not for carrying out a murderous campaign against the relocatees.

As time passes, the discussion is being shaped less by law and history, and more by politics and prejudice. Those who discredit the genocide charge dismiss any possibility of incompetence or foul play by Ottoman officials –especially those on the field, and consider genocide allegations as a political plot to harm Turkey. Their opponents rigidly associate the outcome of this measure with the notion of genocide, and accept no other interpretation as a possible alternative to it.

Infested with emotional presumptions, unsubstantiated claims and methodical mistakes; both literatures passionately discredit each other's legitimacy, and the saddening fate of the millions of Turks, Kurds and Armenians who were victimized within the context of this conflict turns into a negotiation tool for narrow political interests.

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For over thirty years, the Armenian genocide-relocation discourse takes the form of a debate, in which two parties try to convince a third party for the superiority of their own argument. In the absence of a common will to discuss the issue for the purpose of reaching the truth –a process known as *dialectics* in philosophy, resolution of this mutually-destructive controversy is contingent upon international mediation in the future. As the primary body in international conflict resolution and the legislator of the 1948 Genocide

Convention, the United Nations will need to have its International Criminal Court (ICC) hear the dispute over the 1915 events and settle it. In its judgment, the court has to consult to historians who step back from the emotional climate of the subject years, authenticate archival evidence proposed by both genocide and relocation literatures, examine validity of available arguments, and finally reveal their convictions about how these events should be admitted into the pages of history. In these analyses, consistency of the Armenian and Ottoman motivations with the contemporary notions of self-determination and territorial integrity would be instrumental.

Doctrine of Self-determination

Philosophical underpinnings of the notion of self-determination is often traced back to the American Declaration of Independence of 1776 and the French Revolution of 1789. Emergence of the idea of human freedom led the way to some inalienable rights of the ruled against the rulers, and laid the groundwork for demands to determine own future. People were no longer subjects subjugated for the sake of the monarch, they were individuals who control their own fate. The idea of self-determination earned new applications in the early 20th Century. Russian communist Vladimir Lenin emphasized the right of oppressed people to break free from domination, and shape their own future. American President Woodrow Wilson emphasized that the logic behind self-determination should be the core principle underlying the ontological constitution of state vis a vis the citizens. The United Nations International Covenant on Economics, Social and Cultural Rights of 1966 defined the right to self-determination as “free determination of political status, and free pursuit of economic, social and cultural development.”¹

Political philosopher Cindy Holder argues that if determining own future is a fundamental right that is granted to individuals in democracies, it should also exist for groups that are willing to have a joint future.² Because people associate with some groups rather involuntarily (such as joining an ethnic or racial group by birth), collective futures of such groups inescapably impact individual futures of its members. Therefore, there is an organic link between the group’s fate and dignity of its members. “To interfere with self-determination” writes Holder, “is to fail to show respect for a basic component of human dignity”.³ Individuals’ right to decide together for their group needs to be recognized as a universal human right that exists naturally

1 United Nations, International Covenant on Economics, Social and Cultural Rights (1966). Retrieved June 04, 2010 from http://www.unhchr.ch/html/menu3/b/a_ceschr.htm

2 Holder, C. Self-Determination as a Universal Human Right. *Human Rights Review*, July-September 2006.

3 Ibid. p. 7.

and unconditionally across the globe. If “determining the terms on which a group associates with the government that hosts them” becomes an inalienable freedom, then states would always refrain from suppressing or mistreating their minorities, not only when doing so is politically feasible for them.⁴

In this view, self-determination is not a *derivative right* that exists only under certain conditions like inter-communal inequality or colonial occupation. Its underlying belief is that a conditional self-determination right would be ineffectual to the degree of meaningfulness due to the power asymmetry between the involved parties. If self-determination is considered as “a special right that peoples acquire as subjects of past injustice, or by special arrangement because of special circumstances, historical accident, or a negotiated compromise”, then “the burden of proof in disagreements over the scope of state authority” falls on people, which is the weaker and distressed side in such situations.⁵ On the other hand, appointing the state to make the judgment call of whether or not self-determination right exists in any given situation creates a conflict of interest. It is less than realistic to expect a state to act prudent enough to restrict its own authority to empower a group it is in a conflict with. In this zero-sum game, self-determination right of the group would likely be subordinated to “national interest” of the larger society as defined and represented by the state. A better approach, therefore, would be to interpret the self-determination right as a “deflat[ion] of the rights of states to make room for groups”, not an “inflat[ion] of the rights of groups to match those of states”.⁶

Self-determination is neither the same as secession, nor the first step towards it. Because it does not provide an exemption from the obligations of international laws, it would not function as an incentive for separatist violence.

Holder stipulates that universalization of the self-determination right would not necessarily undermine socio-political stability across the globe. Self-determination is neither the same as secession, nor the first step towards it. Because it does not provide an exemption from the obligations of international laws, it would not function as an incentive for separatist violence. In the past, autonomy of self-determining groups seldom turned into a pursuit of full independence, and when it happened, it was an outcome of the larger state’s continuous suppression during the period of autonomy. Even when a self-determining group seeks to break out, its establishment as

4 Ibid. p. 7.

5 Ibid. p. 7, 9.

6 Ibid. p. 10.

a “sovereign state” is still contingent upon its recognition as such by the international community, and in such contexts, international jurisprudence overwhelmingly favors territorial integrity concern of host governments over the secessionist aspirations of separatists.

The right to self-determination brings along a right to wield, which encompasses an agency problem. How can we be sure that a leadership that claims itself to be the representative of a community does indeed represent the common will of that community? Because, by the very definition of the term stateless nation, representative powers of such self-proclaimed leaderships are created by informal rather than democratic means, agency problem surfaces as an intrinsic feature of self-determination struggles. This was the core concern by various international organizations in the early 1990s when they refused to acknowledge the last apartheid administration as the legitimate representative of the South African nation, majority of which were indigenous blacks who were not allowed to vote. Such political sanctions in response to the widespread violations of human and political rights, and economic pressure by international financial institutions put an end to the half-a-century long practice of institutionalized racism in South Africa in 1994.

If we take the self-determination right as a universal right that exists unconditionally, then the Armenian ideal that led to the 1915 relocation could be considered a legitimate project. However, such an interpretation would also be inconsistent with an essential argument made to support the Armenian genocide thesis. Considering the Armenian separatists’ (Dashnaks’) revolts against the Ottoman state a legitimate exercise of the Ottoman Armenians’ right to self-determination as a community would translate into acknowledging Dashnaks as the legitimate representative of the Armenians in the area. If that was the case, how credibly can it be argued that the fact that Ottoman state relocated Eastern Armenians in their entirety points to genocidal intent? If a terrorist organization represents a community as a nation, then responding to it would call for a collective state action against the entire community.

On the other hand, if we take the Armenian insurgency as an isolated campaign carried out by some radicals detached from the Armenians in the area, then such a position would be at odds with historical records. Development and the context of the Armenian national struggle (as Dashnaks called their cause at the time) suggest that the separatist mission was a social movement widely supported by the Armenian communities in the Eastern Ottoman Empire. Memoirs and testimonies of the Armenian and Russian leaders from the subject years reveal that Dashnak’s insurgency started as an

unpopular extremist rebellion, but later mutated into an ethnic struggle as the Ottoman land was crumbled by the Entente forces during the war.

As an ironic stroke of history, the so-called obituary of the Ottoman Empire (the Sevres Treaty of 1920) acquits the Ottomans from the suspicion that they took a collective action against the Armenians in order to exterminate them. Only Entente Powers that fought and won the war against the Ottoman state were invited to the Sevres negotiations that laid out the terms and conditions of the partitioning of the Ottoman land, and Armenians were one of the 13 parties that were allowed to participate in the conference. The head of the Armenian National Delegation, Boghos Nubar Pasha justified their presence in the conference in his opening remarks:

“We fought against the Ottomans. For this reason, we are one of the warring parties. It is in this capacity that we want to take part in the conference.”⁷ The delegation’s demand was accepted by the Allied Powers, and Boghos Nubar Pasha participated in the negotiations on behalf of the Armenians in Eastern Anatolia. At the conference, demands of the Armenian delegation were granted and an Armenian Republic was agreed to be established in the six Eastern Ottoman provinces.

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The dual facts that an Armenian organization that admitted its fight against the Ottoman state was allowed to represent the area Armenians in the conference, and that it was given a sizeable portion of the subject territory to establish an internationally-recognized Armenian state have become certifications that the Dashnak uprising cannot be attributed to a group of rebels detached from the Armenian locals in the region. Had Mustafa Kemal Atatürk and his fellow defenders not fought and won a resistance war against the occupying armies and compelled them to nullify the Sevres Treaty, a Republic of Armenia would have been established in the Eastern half of the modern-day Turkey with a land mass larger than that of 22 of the 27 member countries of the European Union today (approximately 115,000 square miles). Relocated Armenians who are claimed by the genocide literature to have been unfairly exposed to a collective measure would have been resettled in these lands regardless of the degree to which they supported the Dashnaks’ mission during the war. As amply documented in the Russian, British, American and Ottoman archives, Armenians of Eastern Anatolia were far

7 Gündüz Aktan, “The Lausanne Peace Treaty and the Armenian Question,” in Ömer Engin Lütem (ed.), *The Armenian Question: Basic Knowledge and Documentation*, (Ankara: Terazi, 2009), p.23.

from being peaceful apolitical civilians as portrayed by the Armenian genocide literature. Because of this very fact, which is predictably downplayed by the pro-genocide resources, relocated Armenians have to be perceived by international legists as enemy combatants within the scope of martial law, not as peaceful civilians under the protection of genocide law.

Cindy Holder observes that states' denial of the minority rights to self-determine typically starts with their perception of groups as "inherently vicious, [...] untrustworthy, [...] historically backward or incapable of self-governance. As an empirical matter, hostility to self-determination and violations of rights to physical security, political participation, equality before the law and other human rights tend to go hand in hand."⁸ Neuberger adds that "where there is a permanent ethno-cultural majority, and minority and the majority has no incentive to allay the minority's grievances, the minority will be disillusioned with a principle which condemns it to permanent exclusion from the levers of power and influence."⁹ These guidelines contrast with the socio-historical background of the Armenian case. In the Ottoman Empire, Armenian minorities were nicknamed as millet-i sidika, which meant "loyal nation". Their cultural compatibility to their fellow Ottomans was exemplary, and the fact that they were the highest socio-economic segment in the Ottoman society with numerous figures in leadership positions in the government rule out any possibility that they were perceived as dangerous, unreliable, regressive or incapable. Even though millet-i sidika argument alone is insufficient to disprove the genocide charge (technically, a genocide can still be committed against a well-off group favored by the general society and the state prior to elevation of a conflict), it is equally conclusive that the emotional atmosphere at the beginning of Armenian revolts did not resemble the climate predicted by the self-determination literature. As documented by various primary sources, Armenians' pursuit of independence was an outcome of miscalculated opportunism on the part of the Ottoman Armenians who sought to take advantage of the turmoil in the Ottoman country. Its association to a social dynamic stemmed from the feelings of religious or ethnic persecution was, to put it succinctly, less than weak.

The Armenian case demonstrates that the right to self-determination can jeopardize international peace and stability if it is legislated as an unconditionally-existent universal right. In order to function as an endorsable democratic right that contributes to free and fair existence of communities and cultures across the globe, it should be allowed to exist selectively only when several conditions are satisfied. Firstly, it needs to be claimed out of a

8 Holder, 2006: 14.

9 Benyamin Neuberger, "National Self-determination: A Theoretical Discussion," *Nationalities Papers*, Volume: 29, Issue: 3, 2001, p. 400.

legitimate need. While what constitutes “legitimate need” is a potentially divisive topic, it seems sensible to suggest that mistreatment of a group would be one. If a group is ill-treated in any way by the larger society (may it be in the form of religious persecution, ethnic discrimination, racial segregation or sexual harassment), its pursuit of self-governance ought to be construed legitimate. Will Kymlicka’s assertion that “unequal circumstances” justify the right to self-determination is parallel to that of Allen Buchanan who writes that “collective rights to indigenous peoples [...] are needed as special protections for [their] distinctive interests [...] as a result of historical injustices perpetrated against them.”¹⁰ Uz further argues that “in [a] sovereign state, people would not have the right of self-determination unless they are discriminated on the basis of race, faith, language, etc.”¹¹

A second condition for the self-determination right would be peacefulness of the group seeking to exercise it. Except for some rare occasions in which a persecuted group resorts to violence solely as self-defense, violence in pursuit of self-determination must disqualify the mission to be a lawful exercise. Quebec Party’s pursuit of independence from Canada exemplifies peaceful execution of the self-determination right with its predominantly intellectual and political content. Mahatma Gandhi’s seminal leadership in pursuing his nation’s independence from the British colonizers was an epic yet promising episode that demonstrated that armed struggle is not the only way of accomplishing freedom. The Armenian case fails in the “peace test”. As noted previously, the way the Eastern Armenians chose to seek independence was strategically violent. Total number of Turks and Kurds who lost their lives as a result of Armenian assaults during the WWI is reckoned, if somewhat speculatively, by demographers to be between half a million and two million.

Thirdly, for a group to claim ruling authority in an area, it must have inhabited the subject territory for a substantial period. Because of the variable nature and dynamics of each case, it is better to determine the appropriate length of this period on a case-by-case basis rather than formulating it legislatively. This would prevent stateless communities relocating to a country in a war for the sole purpose of taking advantage of the turmoil, and seek independence. This inhabitation test, however, does not refer to “longer inhabitation” than other groups in the area. A group cannot be expected to have lived in an area longer than the larger nation it aspires to break out of. Otherwise, the self-determination right would be a privilege of indigenous peoples only, and this would generate an international law that

10 Holder, 2006: 7.

11 Abdullah Uz, “Teori ve Uygulamada Self-Determinasyon Hakkı,” *Uluslararası Hukuk ve Politika*, Volume: 3, Issue: 9, 2007, p. 81.

turns a blind eye to the harassments of immigrant groups by discriminative governments. Historical records reveal that the Armenians were in Eastern Anatolia long before the Ottomans arrived there in the early 11th Century. The Armenian episode satisfies the inhabitation test because Armenians lived in Eastern Anatolia for a substantial period, not because that period was longer than the Ottoman existence there.

Lastly, for a group to have the right to use the principle of self-determination for secessionist demands, it needs to represent the demographic majority in the area it aims to break away. Otherwise, a minority group's establishment of a sovereign country would be an inequitable and undemocratic bypassing of the majority will in the area. Appreciation of this idea lies at the center of the settlements controversy surrounding the Israeli-Palestinian conflict in the Middle East. Israeli government builds Israeli neighborhoods on the Palestinian side of the border in an effort to gain the majority status, and claim ruling authority in the area. This, however, is not to suggest that the self-determination right exists only for majorities. Preda considers the right to self-determination to be a "broad notion", and rejects "the restrictive view according to which the right only applies to colonial peoples and its implementation amounts to independent statehood."¹² Self-determination right belongs to both minorities and the majority, but its usage for independence must belong only to majorities. Official Census Records from 1914 reveal that the Armenians made about 20 percent of the population in the Six Vilayets (cities) in Eastern Ottoman region.¹³

Doctrine of Territorial Integrity

Self-determination may not be synonymous to secession theoretically, but it is strongly associated with it practically. Law Professor Vita Gudeleviciute writes that "... all history prior to the emergence of self-determination as a legal principle and later use of this principle in the resolutions of the United Nations reveal that this principle very often appears in connection with territorial claims, secession and claims for independence." When a community seeks to break out as an independent nation, which is a demand that inescapably includes a territorial claim, then the self-determination right begins to challenge the territorial integrity of the established state. Since protection of people and territory is the most fundamental function for which the institution of government was created, motivations to secede and to

12 Adina Preda, "The Principle of Self-Determination and National Minorities," *Journal of Dialectical Anthropology*, Volume: 27, 2003, p. 205.

13 Ottoman Census Records, as made available in Turkish State Archives at <http://www.devletarsivleri.gov.tr/Forms/pgArchiveBooks.aspx>

protect territory lead the two parties into conflict. Gudeleviciute notes that “the right to choose his/her own destiny inherently belongs to every human”, but “territory is one of [the] fundamental attributes of a state. [It] is one of the [...] well-established principles of international law, [as] enshrined in the Covenant of the League of Nations and again in the Charter of United Nations.¹⁴

To examine the legitimacy of the Ottoman state’s policy to relocate Eastern Armenians, the basis of the notion of territorial integrity needs to be clarified. Article-2 of the United Nations Charter reads that ‘all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state’.¹⁵ Gudeleviciute interprets this phrase to argue that territorial loss due to local threats is a domestic matter that is outside the scope of international law. He contends that the “[...] international legal rule applies only between states, because ‘members’ under the UN Charter are only states”, and therefore “respecting the territorial unity [...] of a state by its own population is a domestic affair, and [it] does not fall within the international law jurisdiction.”¹⁶

A monopoly on ruling power is a defining characteristic of the institution of government, but the size of the territory does not have anything to do with being government. Monaco with less than one mile-square area is no less of a “government” than a 6.5 million-square miles wide Russia as far as the United Nations is concerned. The UN continued to recognize Serbia as an independent state after a part of it unilaterally declared independence in 2008 under the name Kosovo. Because sovereignty or statehood is not compromised by territorial loss, secession is a domestic issue that remains outside the scope of international law.

If statehood has nothing to do with the size of the government territory, and the business of international organizations is solely the affairs between the states instead of the states’ affairs with their peoples; how is the legitimacy of a state action to protect territorial unity linked to international law? The answer is twofold: Firstly, considering international law identical to transnational law is a narrow interpretation that is incompatible with the true sense behind it. In the term international law, the word “international” refers to the wider meaning of the word, which is “universal”; not just to the narrower meaning of “between nations”. If domestic matters were not subject to international law, a domestic concept like genocide, for instance, would

14 Vita Gudeleviciute, “Does the Principle of Self-determination Prevail over the Principle of Territorial Integrity?” *International Journal of Baltic Law*, Volume: 2, 2005, p. 48.

15 Ibid. p. 50.

16 United Nations, Charter of the United Nations and the Statute of the International Court of Justice. (1945). Retrieved June 03, 2010 from <http://www.un.org/en/documents/charter/>

not have been criminalized by the UN in 1948 with the Convention to Prevent and Punish Genocide. Two UN-based tribunals held in 1998 and in 2007 ruled that Jean-Paul Akayesu of Rwanda and the Serbian Government were in breach of the convention for their responsibility in Rwanda Genocide and Srebrenica Genocide, respectively. Taking international laws purely as regulations of interaction between governments is a shallow interpretation that leads to attitudes like that of Sudanese government, which argued that the ICC has no jurisdiction in Sudan and refused to turn its Interior Minister Ahmed Haroun and a Janjaweed leader Ali Kushayb in the UN that found them guilty of war crimes during the Civil War in Darfur.

Because a government's legitimacy as a supreme authority in its territory originates in its international acknowledgment, and international organizations and agreements require obedience to their rules and regulations; international laws cannot be considered as guidelines solely for inter-governmental conduct.

One of the requirements of being a “government” (and of being an official “country”) is its acknowledgment as such by an international authority. “The principle of territorial integrity”, writes El Ouali, “is the principle that recognizes the sovereign existence of peoples, represented by their own states, within territories the legal basis and limits of which have been established in accordance to international law.”¹⁷ Such legal basis can be established by membership to an international organization such as the United Nations, European Union or NATO, or by participation in an international agreement such as the Lausanne Treaty that officially acknowledged the Republic of Turkey as a new

country in 1923. Similarly, Turkish Republic of Northern Cyprus is considered as an “occupied territory” rather than a “sovereign country” due to being acknowledged as a independent nation only by the Government of Turkey. Because a government’s legitimacy as a supreme authority in its territory originates in its international acknowledgment, and international organizations and agreements require obedience to their rules and regulations; international laws cannot be considered as guidelines solely for inter-governmental conduct. Summers recognizes “the law of self-determination [as a] [...] product of the interaction between nationalism and international law. It is the tension between these two doctrines [that] defined the content of that law.”¹⁸

Secondly, perceiving government as an unaccountable and unrestricted authority over its people under the name of sovereignty lays the groundwork

17 Gudeleviciute, 2005: 50.

18 Abdelhamid El Quali, “Territorial Integrity: Rethinking the Territorial Sovereign Right of the Existence of States,” *Geopolitics*, Volume: 11, 2006, p. 646.

for a Hobbesian leviathan state. In such rampancy, concepts like territorial integrity or national security, which are normally endorsable, can turn into some buzzwords used to justify state terror like those perpetrated against Bosnian Muslims in Srebrenica, Tutsis in Rwanda or non-Arabs in Darfur. The principle of sovereignty restricts accountability of political leaderships only to their domestic electorate, however it does not make them exempt from humanitarian obligations of international (global) jurisprudence.

If territorial integrity is a governmental right protected by international laws, where does it end and where does the self-determination right start? The United States Constitution of 1776, with its celebrated balance between creating a state that protects civil liberties and one that acts authoritatively for the common good, refrains from specifying what particular “trial procedures are legitimate or what sanctions are proper”¹⁹ for the government. The duty of determining the limits of punitive actions of the US government was left to the same source that created the institution of government: People. “If”, Roger Pilon argues, “we want to reduce the chances of arbitrary or capricious lines being drawn, it is best to leave the drawing to the collective judgment of the people who must live under them.”²⁰ This view is consistent with Dolovich’s argument that “to be legitimate, the exercise of the state’s power to punish criminal offenders in a liberal democracy must be consistent with principles the terms of which all members of society would accept even if they did not know where in the criminal justice hierarchy they would turn out to be.”²¹

From this perspective, Armenian relocation is quite challenging to analyze reliably. In the midst of a world war, in which the Ottomans fought with minimal resources against some of the world’s most capable armies at the time; the Ottoman public was not able to make any judgment on the uprightness of their government’s relocation measure. All the Istanbul administration could do for due process was to issue a relocation law that legalized deportation of any group that supports the enemy during a war. The law, which did not include the word “Armenian”, outlined the sanctions against the crime of treason. Albeit belligerent and unrepresentative of the opinion of the much larger Ottoman society, the only public comment on the government’s relocation idea was some local bandits’ attacks against the relocation convoys. Those assaults were a manifestation of an old social psychology in which “patriotism is considered sacred, and insulting national dignity is considered sinful.”²²

19 James Summers, “The Right of Self-Determination and Nationalism in International Law,” *International Journal on Minority and Group Rights*, Volume: 12, 2005, p. 353.

20 Roger Pilon, “The Purpose and Limits of Government,” *Cato’s Letters*, 1999, p. 16.

21 Ibid.

22 Sharon Dolovich, “Legitimate Punishment in Liberal Democracy,” *Buffalo Criminal Law Review*, Spring 2004, p. 440.

In the absence of a credible indicator of public view, examining the illegitimacy of the relocation policy would be one of the few ways of finding out whether it was a just and appropriate public policy under the governmental rights to protect territorial integrity and national unity. The United Nations Convention on the Prevention and Punishment of the Crime of Genocide (1948) reads that targeting a “national, ethnic, racial or religious group” with “intent to destroy” constitutes genocide.²³ The Armenian relocation satisfies the actors condition (although the relocation order did not address any particular group, the relocation was implemented only against the Armenian community as defined by their ethno-religious identity), but there is a lack of evidence to suggest that the administration designed the relocation for the purpose of exterminating the relocated subjects. The regrettable outcome of the relocation is insufficient by itself to point to a genocidal campaign.

One last dimension of the issue relevant to the discussion of the Ottomans’ motivation in 1915 is the context and the capabilities of those who carried out the relocation order on the field. Wartime hardships allowed Ottoman administration to dedicate only minimal resources to the execution of the relocation. Soldiers who worked in the implementation of the relocation were mainly vigilantes who joined the armed defense to protect their homeland from imperial occupation. The profile of a typical Ottoman soldier in the WW1 was far a cry from the professional soldier portrayed by Samuel Huntington as a “violence management expert” who are trained and prepared to conduct the “business of protection” with certain “ethical guidelines and mentality” called *weltanschauung*.²⁴ As Carl Schmitt once wrote, “state is a notion that belongs to its time.”²⁵ Arguments that the Ottoman soldiers could have protected the convoys better, and the Ottoman state could have relocated only belligerent Armenians are outcomes of anachronistic naiveté in which historical events are interpreted with modern conveniences, capabilities and paradigms without cognizance of the actual conditions existed during the World War-I.

Conclusion

This paper argues that the right to self-determination should be allowed to justify secession demands only when it promises to discontinue mistreatment

23 Ernst Kantorowitz, “Orta Çağ Siyasi Düşüncesinde ‘Vatan için Ölmek – Pro Patria Mori,’” in Cemal Baki Akal (ed.), *Devlet Kuramı*, (Ankara: Dost, 2005), p. 109.

24 United Nations, Convention on the Prevention and Punishment of the Crime of Genocide. (1948). Retrieved February 06, 2011 from <http://www.hrweb.org/legal/genocide.html>

25 Huntington, S. (2004). *Asker zihniyeti*. İstanbul: Salyangoz Yayınları, 66.

of a peaceful majority that inhabited its land for a substantial period of time, and concludes that the Armenian struggle during the World War-I satisfies the duration test, but falls short on the mistreatment, peace and majority tests. As Barkun says, “there is nothing novel about users of violence claiming legitimacy by linking their actions to interpretations of law, the constitution or democratic theory.”²⁶ The Union and Progress Administration’s response to Armenian uprising was justifiable from the perspective of the principle of territorial integrity. Nonetheless, the dual premises that the Armenian uprising was not a legitimate exercise of the self-determination right, and the Ottomans’ relocation was a legal act from the perspective of territorial integrity and national security are insufficient to prove that a genocide could not have occurred in 1915. To conclude whether the Armenian deportation constituted genocide or relocation, further investigations have to be conducted supplementally. Settling the conundrums about whether the Ottoman state had annihilative intent, and whether involuntary manslaughter could legally be considered as an element of genocide the same way as premeditated murder is would be the key points in those studies.

26 Schmitt, C. (2005). Somut ve çağa bağlı bir kavram olarak devlet. In C. Akal (Ed.), *Devlet Kuramı*. Ankara: Dost Kitabevi Yayınları, 253.

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